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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

**UKRVAKTSINA**, a Ukrainian state-owned  
enterprise,

**Plaintiff,**

v.

**OLDEN GROUP, LLC**, an Oregon limited  
liability company; and **INTERFARM, LLC**, a  
Ukrainian company,

**Defendants.**

Case No.10-CV-06297-AA

**REPLY IN SUPPORT OF PLAINTIFF'S  
MOTION TO REQUIRE PROOF OF  
DECLARANT OLEG YAROSCHUK'S  
EXISTENCE AND IDENTITY**

Page 1 - REPLY IN SUPPORT OF PLAINTIFF'S MOTION TO REQUIRE PROOF OF DECLARANT  
OLEG YAROSCHUK'S EXISTENCE AND IDENTITY

In its response to Plaintiff Ukrvaksina's Motion to Require Proof of Declarant Oleg Yaroschuk's Existence and Identity ("Motion"), Defendant Olden Group, LLC fails to provide any meaningful assurances that Yaroschuk is who he purports to be. Accordingly, the Court should grant Plaintiff's motion and require Yaroschuk to submit evidence sufficient to confirm his identity and existence.

As Plaintiff explained in its Motion, Olden Group submitted two declarations (Dkt. Nos. 16 and 31) signed by an individual who purports to be named "Oleg Yaroschuk" and to serve as Olden Group's director. However, Plaintiff has reason to believe that Yaroschuk may be fictitious or may be an individual using a false name or other assumed identity. Plaintiff's Motion and the accompanying declaration of Zoë Newman set forth the bases on which Plaintiff has cause to question Yaroschuk's identity and existence. In short, Plaintiff's exhaustive factual investigation has revealed no affirmative evidence of an individual named Oleg Yaroschuk who is connected to Olden Group.

Olden Group's lawyer's assertions that he has communicated with "Yaroschuk" by video conference and email do not answer the questions raised by Plaintiff's investigation and present motion. Based on Olden Group's response, its counsel knows only that he has communicated with an individual who claims to be named Oleg Yaroschuk. Plaintiff's concern is that the name Oleg Yaroschuk may have been borrowed or created by the beneficial owners of Olden Group to conceal their true identities. Despite the issues raised by Plaintiff, Olden Group's counsel apparently has not verified – and perhaps cannot verify – that "Yaroschuk" is an existing, properly identified natural person.

Plaintiff asks Yaroschuk to provide only straightforward personal information: his address, telephone number, date and place of birth, citizenship, Social Security number or other comparable identification number issued by his country of residence, a copy of his passport, and any other identifying information that the Court sees fit. Contrary to Olden Group's suggestion, Plaintiff's request does not circumvent the civil discovery rules. This preliminary and limited

information is necessary because Olden Group has proffered two sworn declarations by Yaroschuk and thereby put his identity at issue, but Plaintiff has reasons, already described to the Court, to question Yaroschuk's actual identity. The Court should not decide the pending motions, in reliance in part on these declarations, without sufficient assurances that Yaroschuk exists, is the person who he purports to be, and is competent to testify. If Yaroschuk and Olden Group have nothing to hide, there is no reason why they cannot supply this information to confirm Yaroschuk's identity.<sup>1</sup>

In sum, Yaroschuk's sworn testimony is the primary evidence in support of Olden Group's motion to set aside default and its opposition to Plaintiff's motion for default judgment. Plaintiff's investigation has called into question Yaroschuk's existence and the authenticity of his declarations. The Court should assuage all doubts regarding this supposed individual and his testimony before granting any motion in Olden Group's favor on the basis of Yaroschuk's submissions to the Court. It is well within the Court's inherent authority, as guided by the Federal Rules of Evidence, to do so.

### CONCLUSION

For the reasons set forth above and in Ukrvaksina's Motion, Ukrvaksina respectfully requests that the Court issue an order requiring (a) Oleg Yaroschuk to submit a declaration providing his address, telephone number, date and place of birth, citizenship, Social Security number or other comparable identification number issued by his country of residence, and any other identifying information that the Court deems necessary to convince the Court and the Plaintiff of Mr. Yaroschuk's identity and existence, (b) Yaroschuk to file a copy of his passport

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<sup>1</sup> Although Plaintiff maintains that Olden Group should simply be required to file the requested information for the Court's and Plaintiff's benefit, the Court should at the very least conduct an *in camera* review of this information and its own investigation.

with the Court, and (c) counsel for Olden Group to certify the identity of the individual whose sworn declarations they have proffered to the Court.

DATED this 11th day of April, 2011.

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